

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

DOCKET NO. 3:08-cv-411-FDW

TOMMY EDWARD MARTIN,

Plaintiff,

vs.

**MICHAEL J. ASTRUE,
Commissioner of Social Security**

Defendant.

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ORDER

THIS MATTER comes now before the Court upon Defendant's Motion to Dismiss for Failure to Prosecute (Doc. No. 10). Defendant's Motion is GRANTED.

Plaintiff commenced this action by filing his Complaint on September 4, 2008, alleging that Defendant improperly denied him Social Security benefits. Defendant answered on December 18, 2008, and on December 22, 2008, the Clerk of Court entered a scheduling order requiring Plaintiff to file his motion for summary judgment on or before February 23, 2009. Plaintiff had not done so as of March 23, 2009, and Defendant filed the instant Motion to Dismiss. On March 23, 2009, the Court ordered Plaintiff to show cause for his failure to prosecute on or before April 7, 2009, or risk dismissal. Plaintiff has not responded to the Court's Order.

Accordingly, because Plaintiff has neither filed a timely motion for summary judgment nor responded to this Court's Order to show cause, Defendant's Motion is GRANTED and this case is DISMISSED.

IT IS SO ORDERED.

Signed: April 15, 2009



Frank D. Whitney
United States District Judge

